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**WEARE BOARD OF SELECTMEN
MEETING MINUTES
October 20, 2008**

PRESENT: TOM CLOW, CHAIRMAN; WENDY CLARK, VICE CHAIRMAN; HELEEN KURK, SELECTMAN; RICHARD W. BUTT, SELECTMAN; KEITH R. LACASSE, SELECTMAN

TOWN ADMINISTRATOR: Fred Ventresco

RECORDING SECRETARY: Cherry Palmisano

GUESTS: Frank Campana, Evelyn Connor, Sherry Burdick, Ruth Jones, Burt Brown, Janet Brown, Rick Brown, Bob Brown, Deb Brown, Doug Cook, Carl Knapp, Mary Pinkham-Langer, Harold Janeway, Naomi Bolton, Andy Fulton, Chris Bolton, Bill Bolton, Vincent Iacozzi, Ray Banks, David Plante, Susan Plante, Allison McLean

7:00 p.m. Chairman Clow called the meeting to order.

PUBLIC PARTICIPATION – Mr. Doug Cook said he would like to clear up the misinformation coming out of Board meetings concerning the Safety Complex. Mr. Cook said as a result of this misinformation an article was published by the Union Leader. Unfortunately he feels the reporter relied on one meeting and one person for her facts. Mr. Cook gave a brief history on how the Safety Complex came to be built. Mr. Cook said after all research they had 3 options regarding construction of the Safety Complex, general bid, invitational bid or construction management; construction management was the best option. He said both Chiefs were involved in the process. Mr. Cook feels the Safety Complex is being discussed as though it is falling down. Mr. Cook mentioned problems that have been discussed regarding the Safety Complex and cited freezing doors, strong sewer odor, electrical problems in the fire department bays, mold in the truck bays and now the issue of the garage doors; all of which turned out to be minor issues. Mr. Cook said they are now referring to the garage doors as residential doors that are garbage and have to go out to bid and replace them all. Mr. Cook said the doors are commercial grade garage doors. He thinks the BOS and the citizens have been led down a path of exaggerations. Mr. Cook said the contractor for the garage doors has bent over backwards to accommodate and remediate the situation and feels he is being unjustly slandered. Mr. Cook's complete letter is on file in the Selectmen's office.

Mr. Frank Campana said he knows the time is getting close for the BOS to meet with the Department of Revenue to set the tax rate. Mr. Campana asked the Selectman if they will be having a discussion in a meeting regarding what to do with surplus money above and beyond what the town needs to operate. He urges the Board in relation to the surplus money to send it back to the taxpayers to reduce the tax impact. Mr. Campana said there is never a good time to raise taxes, now being the least desirable. Mr. Campana asked if the Selectmen will be having a similar discussion prior to meeting with the Department of Revenue regarding the Overlay. Chairman Clow said it would be a logical discussion to have, not sure if they can have it in exact dollar figures. They can discuss it conceptually before the meeting because the whole Board does not always attend the meeting to set the tax rate. Chairman Clow said as far as the overlay they try to be very close with this number, it can be pretty exact and for the last 2 years there has not been any attempt to exaggerate the overlay; they try to stay as close as possible as to what they pay for rebates. Mr. Campana said in relation to the excess amount

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or any overage in the amount of surplus he encourages the Board to return the maximum amount they can, not keep to offset some warrant articles because it is the taxpayer's money.

DEPARTMENT HEADS – Ms. Evelyn Connor reminded the public the election is coming soon and Friday will be the last day to register at her office. She said the Supervisors of the Checklist will be in on Saturday from 11-11:30 and that will be the last opportunity, after that you can only register at the polls. Mrs. E. Connor asked the Board to all be available to count the ballots. Absentee ballots need to be applied for now and need to be returned by Tuesday, Nov 4th. The motor vehicle and tax office will be closed on Election Day. Mrs. E. Connor encourages the public to try to look ahead and know what you are voting on to help reduce the time in line. Doors are open from 7:00 am – 7:00 pm and everyone in line will get the chance to vote but doors close at 7:00 p.m.

Mr. Carl Knapp said they have filmed the Public Works facility and it can be shown at any time.

Mr. Knapp asked the Board if they have decided if they will be putting sand out for the public. Mr. Knapp said it does cost to screen the sand in their pit; it will not have any salt in it until after the first of the year. Mr. Knapp said he went around last year to local towns and they had small piles that were frozen solid because there was no salt in it. Vice Chairman Clark said if there is no salt in it and it will freeze so why do it. Chairman Clow said he would like it to be available to the public. Mr. Knapp said it does cost. Chairman Clow said if there is salt available to add it to the sand pile. Selectman Kurk asked about the cost. Mr. Knapp said with fuel, vehicle maintenance and man hours it cost about \$3.50 a yard. Mr. Knapp said he put 15% salt in the public sand, just enough to keep from freezing. Selectman Butt feels it is Mr. Knapp's decision based on what he has available; but he would like to see it available. Mr. Knapp said the decision needs to be made because if they have any snow between now and the first of the year they will be out of salt after 8 trips out. They don't have funds available to purchase salt until after the first of the year. Selectman Butt prefers not mixing the salt in with the sand until closer to the end of the year. Chairman Clow agrees with holding off on mixing the salt until it can be better predicted what will be left for salt.

Mr. Ventresco mentioned the granite posts at the Stone Memorial Building. Ms. Sherry Burdock, Building Committee, said with the widening of East Street from the school to the corner there is only 2 feet from the edge of the pavement to the granite posts. The Historical Society is concerned with the posts being damaged from snow and plows. She thought they could have them pulled out for the winter and then reset them sometime in the spring. There are 15 posts. Mr. Knapp said he can pull the posts out and store them.

Selectman Butt said he attended a PARC meeting last week and they discussed access road to Bolton Park and access to the Woods Family Forest Conservation Area. Selectman Butt said PARC needs to close the road because of vandalism and questions were asked if it was a town road. Selectman Butt said during the construction phase they put in electrical poles and a letter from the BOS to PSNH was received saying it was a town maintained road the cost would be less then if it were a private road. He would like to know what the class of the road is, if it is a class 5 road it cannot be gated. Selectman Butt would like to give the information to Mr. Ventresco to research the classification. PARC is concerned with protecting the playing fields, which will have to be gated. Selectman Butt said they received a request from the Bolton Family to name the road Priscilla Lane if it does get named. Chairman Clow said Mr. Ventresco will talk with Mr. Knapp to see if the road meets the specifications needed to meet a class 5 road. Selectman Butt said if it is maintained people can use the resreation area for cross country skiing. Mr. Knapp said accepting the road would add more sand and 15 minutes to the plow route.

Mr. Ventresco mentioned Toby Hill and receiving a request to cut brush but it is not town maintained. Mr. Ventresco said a citizen is offering to cut back brush to prepare the road for snowmobiles and fill in pot holes as well. They need permission from the town to do work on that road. Mr. Ventresco said the town cannot maintain it but asked if the town could give permission for others to do work on the road. Mr. Knapp said they are looking to snowmobile, it is on the snowmobile trails, and he is all right with them doing the work.

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Ms. Burdick said they reviewed the quotes along with the Fire Protection Engineer and they decided to go with Electronic Security Protection Company for \$13,974.00. Mr. Ventresco said they had 2 others bid \$22,000 and \$19,830. It was discussed there is \$280,000 currently in the fund. Selectman Butt asked if there were any other invoices to come out of that fund. Mr. Ventresco said there is \$25,000 for the roof on the Stone Building and \$10,000 for the masonry. Vice Chairman Clark asked if there was a guarantee that this meets the standards from the engineer. Ms. Burdick said the Fire Protection Engineer wrote the specifications. Mr. Ventresco will make sure he gets something in writing from the contractor when they sign the specifications. The Fire Engineer has assured them verbally that this will be the requirements.

Selectman Kurk moved, Selectman Lacasse seconded to expend \$13,974 for the fire alarm for the Town Offices to Electronic Security Protection Company from Manchester with the funds to come from the Government Building and Maintenance Fund. Passed 5-0-0

Ms. Burdick said the 2 chimneys are completed on the Stone Building. Ms. Burdick informed the Board that the granite steps have been reset over the weekend at the Town Hall.

Senator Harold Janeway informed the Board he was here tonight to discuss fuel assistance. He said the situation is moving so fast and changes as the market changes. Senator Janeway said they had a special session called by the governor where they authorized the low income heating assistance program. He said more funds will be coming from the federal government as well. Senator Janeway commented on the number of people who will be requiring assistance this winter. Senator Janeway told the Board that on staywarmnh.org it gives information to the public regarding energy costs and useful tips on where to receive help. Senator Janeway encourages the town to have contingency plans to keep the public warm. Vice Chairman Clark said they have the town website and cable channel where they can inform the public of staywarmnh.org.

DISCUSSION OF GRAVEL OPERATIONS – Chairman Clow said Mary Pinkham-Langer has worked with Selectman Kurk on gravel pit operations. Selectman Kurk said she gave the Board the same information that the gravel pit operators received regarding what needs to be done to comply with RSA 155E so they understand. At a previous meeting the BOS voted to keep the BOS as the regulators of gravel pits. This is coming up because a couple of years ago the BOS was made aware they were not in compliance with gravel pit operations. Selectman Kurk said in having met with various owners and touched base with the town attorneys some things needs to be cleared up. Selectman Butt questioned the process and said back in June the Board decided to vote on the Land Use Coordinator being the point of contact for the first stage of the process to collect info and inform gravel pit operators of information necessary. Selectman Butt said he noticed that this has changed and questioned why the Land Use Coordinator is no longer involved and the Code Enforcement Officer is now involved. He agrees that the Code Enforcement Officer should be involved but still feels the Land Use Coordinator should be receiving the information. Selectman Kurk said the Land Use Coordinator was in on all the meetings except one, because of the request of the pit owner; which she felt that they needed to grant the pit owners request. Selectman Butt does not agree and feels that if the employee did not feel there was a conflict of interest then she should not have been excluded. He does not see that there would be a conflict. Selectman Butt said he is concerned that they set a process and is concerned with the process being changed without the Board participating in the decision.

Chairman Clow said they need to focus and let things lie as they are and move forward from this point. Chairman Clow said they have information on which operations are grandfathered and which are not. He wants to make sure they make this decision tonight. Chairman Clow mentioned the exclusion of the Land Use Coordinator from one of the sessions and suggests that they should just move on with business from this point; no one has eliminated the Land Use Coordinator from the process of receiving information. Selectman Kurk said there were times when the Town Administrator took full reins of the gravel pit operations and the Land Use Coordinator picked up part and then that stopped for a while because the BOS wanted to get into compliance. It seems that if the BOS is taking responsibility of this then it belongs to the office of the BOS; she

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spoke with the present Land Use Coordinator and decided that if the BOS is going to take care of it then it belongs in the Selectman's office and where it touches Land Use then it goes to the Code Enforcement Officer. Selectman Kurk said she would like to establish grandfathered pits and what is involved.

Chairman Clow said there is confusion of where the point of contact lies; he assumed it was the Land Use Coordinator. Selectman Butt said he wants to verify where the point of contact lies; which they did identify as the Land Use Coordinator. It is disturbing to him to see that the employee was not allowed to participate in the process and this news is new to him this evening. Chairman Clow said they will decide this tonight.

Chairman Clow said he needs clarification on the process as well and asked if they are looking to go one operation at a time or going as a group. Ms. Mary Pinkham Langer, Department of Revenue said in meeting with gravel pit operators it was a discovery process, they meet with them and tried to figure out their history. They gathered information, held informal meeting for owners to come in to provide missing information. Ms. Pinkham-Langer said the meetings went very well and the meeting when the Land Use Coordinator was not involved did not go any differently than any other meeting. All owners provided the history of their properties. Now the BOS needs to determine if they are grandfathered or not and for how many acres based on the information collected. Expansion may be limited because of the zoning that was in place on a certain date and can limit if good cause is shown. The town will still have to monitor the grandfathered pits. What the town will be saying that based on the information before them this is what they are permitted and they still have to provide plans and do updates. Ms. Pinkham-Langer said the Board will have to decide how long they want permits to last 2 years, 6 years or 10 years. The pit owners will be subject to site plans and regulations and each pit will have to be reviewed separately. Ms. Pinkham-Langer said some pits are black and white and some are questionable. Chairman Clow said the state requires permitting every 6 years. Ms. Pinkham-Langer said the permit is for the life of the pit, but there needs to be a written update every 2 years and plans every 6 years. RSA155E requires locations of seasonable high water plans which are required by DES. Ms. Pinkham-Langer said there is less of a burden on the property owner if there are period checks; this does not mean they have to get repermited every year.

Mr. Vincent Iacozzi, representing Thibeault Corp., said each individual property is going to have a status hearing tonight and none of the gravel pit operators were informed. Chairman Clow said they received a courteous notification that this would be discussed tonight. Selectman Butt said he is not prepared to make a decision tonight and commented on seeing information that one pit will be grandfathered and is unsure how other pits owners would feel. He feels he is not prepared to make any decisions and feels this should be a Board decision and they are not ready to include the gravel pit operators. Chairman Clow said the information before them says 3 pits meet requirements to be grandfathered. Chairman Clow said he thought they would be making decisions tonight, but if the majority of the Board does not feel they are prepared then no decision will be made tonight. Selectman Butt said he has questions on the minimum standards of RSA 155E. Ms. Pinkham-Langer said you do not have a choice to ignore the RSA requirements. Ms. Pinkham-Langer said there was a Board in the past that deemed some operations to be grandfathered. In researching they could not find the information, but it was stated in passed minutes that the BOS did agree the operations to be grandfathered and allowed them to be so for the past 20-30 years. Ms. Pinkham-Langer said some records are not accurate; they need to start fresh from here to determine the acreage of what is grandfathered. Selectman Butt asked what the standard is for them to make the determination. Ms. Pinkham-Langer said they had to lawfully exist as of August 24, 1979 and operating since August 24, 1977 without a lapse; they could not always find all that information. Ms. Pinkham-Langer said they have indications where permits were granted but they couldn't find the applications.

Vice Chairman Clark said she feels the town failed in the record keeping justifying the grandfathering. Ms. Pinkham-Langer said it is also on the burden of the property owners to provide the information and they were allowed to operate. Chairman Clow said there was a meeting with each gravel pit operator to sort out the

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paperwork to build a clear picture of how the operations comply and whether they are grandfathered. This does not make a specific recommendation to the Board as to whether they are in fact grandfathered. He is wondering if they need the recommendation stating acreage and if the pit is or is not in compliance. Chairman Clow questions if they need to go through a hearing process and with the recommendation on that particular pit then the Board would vote on the recommendation. Chairman Clow is concerned with making decisions without holding public hearings. Selectman Butt said the data has been collected but he feels they should meet with each individual gravel pit owner and agree or not if they are grandfathered. Chairman Clow asked how. Selectman Butt said it would be done in a public forum and in public hearing form. Chairman Clow wants a specific recommendation and wants to be fair in making a decision. Selectman Butt wants to eliminate extra expenses on gravel pit owners and determine grandfathering and permitting.

Ms. Pinkham-Langer said non grandfathered pits expire permits every year, there is a cost to renew and they need to bring in updated plans. She said any time you have a meeting new plans showing the present conditions need to be provided every year to renew the permit. Selectman Butt said he does not want to require pit owners who are not grandfathered to spend thousands to provide updated plans every year. Selectman Butt feels they do need the Land Use Coordinator to help them through the process. Selectman Kurk said she did not feel it would be necessary to meet with the operators again because she thought the Board could read the report and concur with the number of acres and whether they agreed they were grandfathered. Selectman Kurk said one pit was grandfathered and then some board decided no they were not which does not make sense to her or the pit owner. The attorney was the one who said to put it out to the Board as to whether it would be accepted and then move forward. Selectman Kurk said there are pits that have been going under the understanding that they were grandfathered and would probably take the town to court if they now determined they were not grandfathered. Selectman Kurk said in knowing this is the number of acres, this is what you're grandfathered for, the town asks them for a copy of what was sent to DES; she didn't see this as being complex. Selectman Butt said he needs to educate himself and feels meeting with the operators and hearing them and ask questions of them would benefit him; he does not like the way this is moving. Selectman Butt wants to make things as easy as possible for them to do business in the Town of Weare; he is not comfortable with the process and making a decision tonight and asked Ms. Pinkham-Langer for her advice. Ms. Pinkham-Langer said she is not legal counsel.

Selectman Butt said each gravel owner received their own copy of their minutes of their meetings. Selectman Butt said he does not understand if the owners have questions or concerns, what happens. Chairman Clow said he opens the meeting to the owners about the process being used.

Mr. Chris Bolton told the Board he has attended 2 informal meetings and said they are all here because the Town of Weare was out of compliance and would like to know why. He has never received information as to how they were out of compliance. Mr. Bolton said there are previous minutes regarding every operator in town and asked how this Board thinks they can change this. Mr. Bolton said in this town you cannot have a gravel operation if the land is not industrial property. Mr. Bolton asked why they couldn't have fixed the reason for being out of compliance and not go through 6 months of this.

Vice Chairman Clark said it was a fault of poor record keeping and thinks in going forward things need to be by the book and record keeping needs to be audited. She does not think they can go back. Mr. Bolton said so to understand they are not in compliance because of the town's poor record keeping, the town has everyone's records so why are they here tonight. Chairman Clow said it is more than that; there are a lot of towns that are out of compliance with the RSA. Ms. Pinkham-Langer said with the renewal of the permit every year some towns were not requiring new plans and just reissuing the permit. Mr. Bolton said if that is how they were not in compliance, then why didn't they correct that problem, why review everyone's everything. Ms. Pinkham-Langer said the goal was to find out who had to be permitted and who didn't. She said mistakes were made in the past and they are trying to get the records straight so this never happens again. Chairman Clow said they are

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saying they want to have enough knowledge before making a decision; at this time they don't. Chairman Clow said no member of the Board is pushing for changes in any one's status.

It was discussed that Weare has gravel ordinances and the Board has discussed changing that to regulations. Chairman Clow said if they don't make decisions tonight he thinks they should meet with each owner individually to discuss; the Board is not trying to sabotage any operation. Selectman Butt said part of the process is to identify what was wrong and he wants to make sure there is a process in place moving forward. Selectman Kurk said to get to the point they are at now, they had to go back and research and hold those meetings with the pit owners because when they were told they weren't in compliance they had to go back to figure it all out. Mr. Bolton said he agrees with Selectman Kurk; he just wanted to know how they were not in compliance and if they were only out for a couple of issues fix those issues. Selectman Kurk said if they were told they were out because of something that happened in 1979 well the only way to find out was to gather the information and that is why they have been spending this time trying to get the information.

Mr. Rick Townes said he does not feel everyone has the same problem; there are 5 pits in town. He personally wants to know what in his pit was not in compliance.

Mr. Burt Brown, Brownies Sand and Gravel, said he has been in business for 45 years and has attended lots of meetings; he has no problem coming before the Board and providing information. Mr. Brown understands Selectman Butt was not in favor of him asking the Land Use Coordinator to step out; he did not know she had to be there. He did so because he felt it was a conflict of interest. Selectman Butt said he did not have an issue with Mr. Brown said he had the issue with the Selectman asking the employee to leave the meeting. Selectman Butt feels if the employee was asked to leave that meeting then why was she allowed to attend any of the meetings. Mr. Brown said he knew she is the Land Use Coordinator but felt the employee did not belong in the meeting.

Mrs. Janet Brown said she thought the hearings were very fair. Mrs. Brown said the BOS was putting a lot of burden on Ms. Naomi Bolton to be put in the position with her family also being involved in the gravel pit operations. Mrs. Brown said she would like to see the point of contact changed. It was discussed it has nothing to do with the employee but the desire to keep their records private.

Mr. Bill Bolton thinks the grandfathered status is the most important item in discussion. Mr. Bolton feels they are grandfathered and other Boards have gone through this for many years. Mr. Bolton thinks it is absurd to turn back the hands of time and feels this should be done. Mr. Bolton said it is time to get pass the little issues and move forward.

Mr. Iacozzi said if the Board was going to select the status of each pit, he feels it should have been done in a formal setting. Mr. Iacozzi said they never received a follow up even after the site reviews; it was a very general conversation and never received a list of recommendations for their individual pits. Mr. Bolton said they did receive follow up to their meeting in form of minutes of the meeting, but received no decision.

Chairman Clow said they need the sense of the Board if they want to make decision tonight. Selectman Lacasse said he would like to give opinions individually if the pit owner wishes. Vice Chairman Clark asked if each pit is represented tonight. It was confirmed that all 5 pits are represented.

Mr. Bob Brown, Brownies Sand and Gravel, said they have been trying to work with the town with all their paperwork and gave the town everything they asked for and they are here tonight to receive output from the Board. Mr. Brown wants to know where they stand.

Vice Chairman Clark wants to make decisions if possible tonight based on the information available.

Chairman Clow said information from the informal meeting indicates that the Alma Schmidt operation is not a grandfathered operation, 10 acres permitted with another 3 being part of wetland. The owner agrees that the pit is not grandfathered and said he would like a piece of paper stating what the town wants so he can take it to the

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surveyors. Mr. Ray Banks said he is getting sick of going back and forth and wants a signed piece of paper. He said the surveyor does not know what the town wants. Selectman Kurk said he needs to be in compliance with RSA 155E. Ms. Pinkham-Langer said once it is established whether it is a grandfathered or permitted pit they have to send out an application to fill out and decide when the expiration date of that permit will be.

Chairman Clow said one thing being confused tonight is who the employee is to be the administrative piece.

Chairman Clow said the Thibeault Operation, map 409 lot 107, 210 acre site is not a grandfathered operation. The operator agrees and is familiar with the process to obtain an application. Second location map 409 lot 104, 214 acre is not a grandfathered operation. Third operation 2 permits, one on 7 acres and one on 29 acres. Ms. Pinkham-Langer said this is one parcel of land by the tax map but in the past the town granted 2 different permits. Selectman Kurk said the whole parcel is 210 acres but permitted is 7 acres and 29 acres. The owner does agree. Mr. Iacozzi said lot 104 is complicated because the original excavation permit was in effect for many years then had a washout and had a cease and desisted was ordered. It was amended and they went back to get the permit, which was originally granted a variance and the abutter objected to the variance, this is being discussed with attorney's. He said they could remove the excess gravel over 3-4 years and remove the slope. Selectman Kurk said the part they have been permitted for, reflected in the map was 15 acres. Mr. Iacozzi said this is subject to the litigation. It is not grandfathered.

Selectman Butt moved, Vice Chairman Clark seconded to grandfather the Elda Townes gravel pit map 201 lot 211 with 62.82 acres. Passed 5-0-0

There is an issue with the number of acres to be grandfathered. Selectman Kurk said back in 1964 originally there were 124 acres, from 1998 it says 62.82 the tax map says 51.06 acres. Selectman Kurk said since they are doing the grandfathering now they are agreeing on what is left. The owner said there was one parcel of land and $\frac{1}{4}$ of the land is now a house and a lot of land. Mr. Townes said after mining out an area and reclaiming it the acreage gets smaller.

Selectman Butt moved, Selectman Kurk seconded to consider Brownie's Gravel Pit the map 405 lot 60 total acres 63.64 to be grandfathered. Passed 5-0-0

Selectman Butt moved, Selectman Lacasse seconded that Mt. William Incorporated map 409 lot 004, 1,321 acres is grandfathered as indicated on the plan dated January 3, 1980 entitled Mt. William Inc, Earth Removal Application Sheet 2 of 2. Passed 5-0-0

Selectman Kurk said it is stated in the paperwork for many years as 1,290 acres. Mr. Bolton said it has always stated 1,325 plus or minus. Mr. Bolton said this is the original parcel; there has been land taken off the parcel. Ms. Pinkham-Langer recommended referring to the plan in the motion.

Mr. Rick Townes asked the Board what happens now. Selectman Kurk said as a grandfathered pit you know what you don't have to do and the RSA states what you need to do. They do not get permitted by the town but they do need to get permitted every 6 years from DES and need to submit new plans every 6 years and every 2 years site specific required from DES. Ms. Pinkham-Langer said as the grandfathered pits reclaim, they will be reassessed.

Mr. Bolton commented on the Schmidt pit not being grandfathered and the land not being industrial. Mr. Bolton said this Board's intention may be fine but down the road things could change. Mr. Bolton said what they are telling these owners are that they are not grandfathered.

Selectman Kurk said they have to follow the RSA. Ms. Pinkham-Langer said a similar situation is happening in New Boston and the question came up about those properties that renew every year and the zoning requirements. Ms. Pinkham-Langer said because they had previously allowed that use in that area then it was directed to that zoning; past practice. Precedent set the standards.

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Chairman Clow wants to be clear that the intent of the Board is to allow these pits to continue in their present status.

Mr. Bolton said the BOS is opening a can of worms and is setting precedence. Mr. Burt Brown said there are only 2 pits that this would affect and that any future pits would fall under a new ordinance. If a pit is not active for 2 years than it would not stand up. Ms. Pinkham-Langer said he was permitted in the past for 10 acres and that permit has been continued on, if he were to expand beyond those 10 acres he would have to go to ZBA because zoning does not allow for that.

Mr. Iacozzi asked where they go from here for the permit process, how do they proceed and will there be new regulations. Chairman Clow said whatever is on the books for gravel ordinances is what they go by. Chairman Clow said because they are ordinances they would have to go before the voters to change them to regulations. Selectman Kurk said it would be helpful for the pits not grandfathered to know when to renew their permit. It was discussed it is a 6 year permit and 2 year review; owner will give the town copies and apply for the state. Selectman Lacasse asked why they can't make it a 12 year permit not a 6 year permit. Mr. Bolton said the town is only asking for a copy of the site specifics.

Selectman Lacasse moved, Vice Chairman Clark seconded to work toward 6 year cycle and make reapplication of non grandfathered pits for every 6 years to coincide with requirements of NH DES with a 2 year review. Passed 5-0-0

Ms. Naomi said they sent out a letter and once permits expire in December 2008 they will ask them to complete the application for permit and a checklist. Mr. Ray Banks would probably get 6 years; Thiebault would probably get 3 years because everyone applied through DES differently. Ms. Bolton said the 3rd step is to give them the application and checklist and then it would have the expiration dates which will be staggered and the 4th step would to be have public hearings.

DISCUSSION OF MOUNTAIN ROAD – Chairman Clow said in the spring 2 Selectman, 2 members of the Conservation Commission, a number of people from PSNH and public citizens walked the class 6 portion of Mountain Road to look at what had been done and made recommendations on what needs to be done. Chairman Clow said Mr. Gordon Russell was the most outspoken. Chairman Clow said he took pictures and when he recently walked it again he took pictures and noted the improvements. Chairman Clow discussed an area on the left on Mountain Road that large rocks were removed to allow a large opening. Mr. David Plante said he is unsure if there was a stone wall there previously or not.

Mr. Andy Fulton, Chair of the Conservation Commission, said he was there with Selectman Kurk on Saturday afternoon, he said it looks like the vernal pool is now flowing down the side of the road. Mr. Fulton said the silt fence was removed and rocks placed alongside the road but nothing was done to return the size of the pool and looks like it wasn't returned to its previous state. Mr. Fulton said he wants the depth of the vernal pool to be restored. Chairman Clow said his notes say to fill the outflow of the pool. Chairman Clow commented on the culvert on the phantom road, now the brook is going down the side of the road. Mr. Plante said it was determined that the cap stone had fallen. Mr. Fulton asked how that it was determined that it fell. Mr. Plante said from photos. Mr. Plante said they certainly prefer to restore it to its original function which would be best for the environment. Chairman Clow said an issue was brought forth by the state archeologist saying some culverts are unique. He is proposing restoring to its original function. Mr. Fulton said he does not think they can say with great certitude with what they see from the down side of the culvert is what needs to be done. Mr. Fulton asked if the fix will be conducted in such a way so it maintains its functions for many decades.

Mr. Fulton said the Conservation Commission proposes to let the damage stones lay as they may and down from the existing culvert install a modern culvert to be the best maintainable fix to the location and included that the culvert be sized in a responsible manner. Mr. Plante said that would include a hydrology study and thousands of dollars and permits. Mr. Plante said they have already spent a couple thousand dollars just in

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obtaining permits. Selectman Butt asked if there is a way to determine if the culvert could be put back to its original shape. Mr. Plante said the only way would be to clear off the gravel from the culvert, starting at the downstream side where they already know they have a problem and they could probably view from downstream. Selectman Butt suggests they try to get it back to its original shape and beyond that his is not sure how to ask PSNH to spend thousands of dollars to replace it. Chairman Clow agrees because it doesn't seem like it is going to destroy the historical culvert. Chairman Clow said the heavy equipment certainly did add damage to the culvert and he would not feel bad asking PSNH to expend money to repair. Mr. Fulton said he has not been given anything to the level of confidence that these people are experienced in dealing with this. Vice Chairman Clark said if you can't see it how do you know it's broken. Mr. Fulton said without seeing it how do you know if it needs to be fixed. Vice Chairman Clark said to ask PSNH to come back in to fix something that the town cannot fix above and beyond. Selectman Lacasse said all they owe them is to put it back to the way it was before they got there. Selectman Kurk asked what happens if they cannot put it back to the way it was. Mr. Fulton asked what has changed in the thinking. Selectman Lacasse said the money and permitting he was not aware of what was involved in putting in the pipe; he thought the pipe sounded reasonable. Vice Chairman Clark said the Conservation Commission doesn't want people using the road anyway. Selectman Butt said he is assuming they might have to dig up the road. Mr. Fulton said he is hearing the Board say they trust PSNH to take care of it and commented that they have been down this road before. Chairman Clow said he thinks there is a dramatic change from when they went out there in May and what exists now. Chairman Clow said there is no sign of the silt fence, no sign of hay bales and in walking the road it does not look like there has been a lot of intrusion, and he is content with what was done in most areas. Selectman Butt said if the vernal pool was not built up to the way it was supposed to isn't it the towns fault for not being specific enough, how much can we ask of PSNH. Mr. Fulton said the issue that was agreed upon in May in fact was not done. Mr. Fulton said this came from the Board requesting that the Conservation Commission come up with a recommendation of what needed to be done; he said this was done and reviewed by NH Soil Consultants. Chairman Clow said there is significantly less water crossing the road. Chairman Clow said they are contradicting that people driving through the water is bad for wildlife and against the law but putting a plastic culvert in there will allow easier access to the area. Selectman Kurk mentioned the parking area at Ferrin Pond. Selectman Butt said in the past 5-6 years you would have to drive through to park at Ferrin Pond. Selectman Kurk said there is a difference between PSNH going through with their heavy equipment and a handful of cars going through. Mr. Plante said they are trying to facilitate the maintenance of their equipment and asked what happens in the middle of the night if something falls and they need to access the poles. He said they are trying to come up with a method to agree to these issues.

Chairman Clow said they know something needs to be done on the pool crossing on the private road because right now the water is going to eventually wash out the road. Vice Chairman Clark said they should try and restore it to the extent of a working manner. Mr. Plante would be more than happy to get a stone mason if they get the historic preservation officer to agree.

Selectman Kurk asked Mr. Plante if they start out to repair and part way through they find out it is not possible what condition would it be left in. He said they wouldn't make it worse, scrape off the stones that are the problem. Mr. Fulton suggests that if it is the will of the Board that they get a concrete plan laid out in paper. Chairman Clow said he does agree they did take it lightly when they were asked to gain access to that road. Mr. Plante said they acknowledge there was a shortcoming and did not know there were wetlands involved. He will provide them with a specific proposal. He is not sure how long it would take the Historic Preservation officer to review the site. Chairman Clow said he is having a hard time looking at it as a pile of rocks and seeing the historical significance.

It was discussed that for the final outcome the Board will receive a written proposal before any work is done.

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Mr. Plante would like to have expert guidance with the vernal pool and how to repair it. Mr. Fulton said there was no attempt to restore the hydrology of the pool; some attempt was made to repair.

Mr. Fulton suggests that there be an understanding with PSNH that crossing Lilly Brook unless under completely dry or frozen conditions will not be permitted in the future. He understands emergency situations are different but for normal maintenance but crossing should not be permitted unless dry or frozen. State laws states that no vehicle is to pass through water crossing the roads. Selectman Butt said there needs to be signage placed at the crossing and parking area stating it is illegal to pass through running water. Chairman Clow said the issue he has is asking PSNH to replace the culvert. Vice Chairman Clark said it is a class 6 road and they as a town cannot fix the road, they can only ask PSNH to repair what they think they broke.

Mr. Plante discussed putting down a timber mat to cross the water. Selectman Lacasse asked if that would cause more harm. Mr. Fulton asked Selectman Lacasse what the point was in asking for a recommendation from the Conservation Commission. Selectman Lacasse doesn't think it is morally right to correct a problem beyond what they damaged. Selectman Kurk said some of the damage caused by PSNH won't ever be repaired and some things will take many years to repair. Selectman Kurk said the ownest of responsibility should have been on PSNH to not have caused the damage in the first place. The Board agreed to ask PSNH to bring back to its original condition and not beyond. Chairman Clow said they haven't resolved the issue of driving through Lilly Brook. Mr. Plante said they will have the contractor use his best discretion in driving through the water.

MANIFESTS

Chairman Clow moved, Vice Chairman Clark seconded, to authorize the Board of Selectmen to sign Manifest and order the Deputy Treasurer to sign checks dated October 23, 2008. Passed 5-0-0

Accounts payable	\$70,257.84	
Gross Payrolls	<u>\$45,675.99</u>	(includes Spec Detail, Credit Union, Taxes)
Total	\$115,933.83	

MEETING MINUTES

Chairman Clow moved, Selectmen Kurk seconded to approve the minutes of October 6, 2008 as amended. Passed 4-0-1

Chairman Clow said they need to discuss when they will meet with department heads regarding budgets. Mr. Ventresco discussed this with department heads and everyone could make it with the exception of Chief Richards on Wednesday. The Board will meet with the department heads on Wednesday, October 22, at 6:00 p.m. Chairman Clow said they really what a budget plan from each department. Mr. Ventresco said no one has approached him other than Chief Begin. Vice Chairman Clark asked if the discussions should be held in non public. Mr. Ventresco will have to ask the attorney. Chairman Clow said the people have the right to know what police coverage is out there.

CORRESPONDENCE

Mr. Ventresco asked about reserving the attorney for the Deliberative Session. The Board said to schedule the attorney.

Mr. Ventresco said Tax Collector, Diane Lamb, wants to make sure the Board understands that the tax payments don't come in from the mortgage companies until 1 week before they are due.

Mr. Ventresco informed the Board that there is another Weare website that exists that is becoming an issue with the public. Mr. Ventresco will contact the person who the website is registered to and see what can be done.

Mr. Ventresco asked how they are going to fund the buy out situation because employees are asking for their buy out payments which total \$7,500. The Board will discuss.

Mr. Ventresco said he received a request from a citizen to cut back some brush on Toby Hill, which is a class 6 road. Chairman Clow said it is part of the snowmobile trail. Selectman Kurk asked if they have the authority to

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give permission to repair a class 6 road. Mr. Ventresco said the town is not asking them to repair, a citizen is asking the town. Mr. Ventresco will find out from LGC.

Mr. Ventresco said they have old equipment from the cable room on consignment and it did not sell. The equipment is old analog equipment and the owner of the shop wants to get rid of the equipment. The Board said to get rid of the equipment.

Mr. Ventresco asked the Board if they want the 2009 budget to include default numbers on the first round. Chairman Clow said to include it for comparison.

Selectman Butt said he was taking back by the mention of a video of the Highway Department. Selectman Kurk said they discussed this being done last year and Mr. Paul Hague made the video. Selectman Kurk said the video shows the public the current state of the Highway Building.

Chairman Clow moved, Selectman seconded to enter into non public session @ 11:30 p.m. pursuant to the authority granted in RSA 91-A:3II (a&c). A roll call vote was taken, Selectman Butt – yes; Vice Chairman Clark – yes; Selectman Kurk – yes; Selectman Lacasse – yes; Chairman Clow – yes Passed 5-0-0

Chairman Clow moved, Selectman Kurk seconded to come out of non public session @ 11:37 p.m. A roll call vote was taken, Selectman Butt – yes; Vice Chairman Clark – yes; Selectman Kurk – yes; Selectman Lacasse – yes; Chairman Clow – yes Passed 5-0-0

Chairman Clow moved, Vice Chairman Clark seconded to seal and restrict the minutes of the non public session. Passed 5-0-0

Motion to adjourn at 11:38 p.m.

ADJOURNMENT

A True Record.

Cherry Palmisano, Recording Secretary